

REMARKS

Claim Rejections:

Claims 1-5 are all of the claims pending in the present application, and currently all of the claims stand rejected.

35 U.S.C. § 103(a) Rejection - Claims 1-5:

Claims 1-5 continue to stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the previously applied U.S. Patent No. 6,218,930 to Katzenberg et al. In view of the following discussion, Applicant respectfully traverses the above rejection.

In continuing to reject the claims, the Examiner makes two statements, both of which Applicant disagrees with.

First, the Examiner alleges that “it would not make sense to have a circuit for detecting what type of terminal equipment was connected to a network be located at the terminal, since the purpose of identifying the type of terminal is to determine if it is capable of supporting remote power feed, which would have been remote from the terminal.” Office Action, page 4.

Second, the Examiner argues that the present claims are not limited to have the “terminal adapter” of the present invention limited to a single access node. Specifically, the Examiner argues that any elements, regardless of their location, which are used to “adapt” the terminal to the network can be considered to be a “terminal adapter.” Office Action, page 4.

With regard to the Examiner’s second assertion, although Applicant believes the Examiner is taking an overly broad reading of the term “terminal adapter,” Applicant has taken the path of least resistance and has amended claim 1, as shown in the previous section, to clarify

the claimed invention. Applicant submits that this amendment sufficiently addresses these comments made by the Examiner. Namely, the amendments makes it clear that “terminal adapter” is external to the terminal.

Turning to the Examiner’s first assertion (set forth above), Applicant submits that this allegation is without merit. Specifically, the Examiner states that it “would not make sense” to have the identifier circuit located within the terminal, of Katzenberg.

As an initial matter, Applicant notes that when rejecting a claim it is the Examiner’s duty to identify prior which discloses, teaches or suggests each and every feature of the claimed invention. It is insufficient for the Examiner to merely state that “it would not make sense to have a circuit for detecting what type of terminal equipment was connected to a network be located at the terminal, since the purpose of identifying the type of terminal is to determine if it is capable of supporting remote power feed, which would have been remote from the terminal.”

The Examiner must simply use the disclosure of the prior art cited, and/or take official notice of various aspects of the claimed invention. The Examiner can not presume or assume that certain aspects of a claimed invention are present within a reference because to think otherwise “would not make sense.”

In fact, if anything, the Examiner’s reliance on the “it would not make sense” test demonstrates the Examiner’s reliance on hindsight, in light of the disclosure of the present application, which is improper.

Moreover, in complete contradiction to the Examiner's "it would not make sense" test (in fact showing that it does make sense), Katzenberg teaches the opposite of the Examiner's assertions. Namely, Katzenberg states that:

Wiring 66 is connected to one of the ports of an 8 port Ethernet switch 68 which is powered from a main power supply 70. *The Ethernet switch card incorporates the automatic remote power detector 22 discussed in FIG. 1 and the remote power supply 34 discussed in FIG. 2.*

Col. 3, line 66 to col. 4, line 4.

Thus, this disclosure shows that the detector 22 (upon which the Examiner is relying) is located within the Ethernet switch 68 and not the node 64. Thus, regardless of what does or does not "make sense", Katzenberg discloses (and teaches away from the present invention), that the identification circuit is within the Ethernet switch card, which is not within the access node 64.

Therefore, Katzenberg fails to disclose, or render obvious the claimed invention.

Additionally, the Examiner has alleged that it would have been obvious to use a passive circuit, as set forth in the claims. Specifically, on page 2 of the Office Action, the Examiner alleges that the use of a passive circuit would have been obvious to reduce system complexity and by eliminating components. Further, the Examiner alleges that it is likely that Katzenberg "inherently" discloses a passive circuit.

Applicant disagrees with both of these assertions. First, there is no teaching or suggestion of replacing the identification circuit 22 with a passive circuit. Second, the use of a passive circuit is not "necessarily present" within Katzenberg and, as such, any assertion of inherency by the Examiner is without merit.

AMENDMENT UNDER 37 C.F.R. §1.116
Application Number: 09/995,721

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Art Unit: 2636

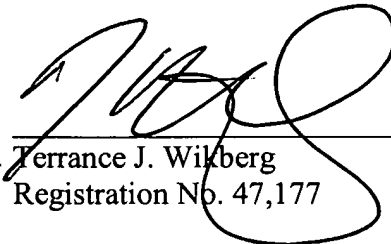
In view of the foregoing, Applicant respectfully submits Katzenberg fails to teach or suggest each and every feature of the claimed invention. Therefore, Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to the claimed invention, as required under 35 U.S.C. § 103(a). Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the above 35 U.S.C. § 103(a) rejection of the claims.

Conclusion:

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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